

**2002 Capital Gain or Loss****D (541)****Attach to Form 541 or Form 109.**

Name of estate or trust

Federal employer identification number (FEIN)

**Part I Capital Gain and Loss**

(a) Description of property: Example, 100 shares 7% preferred of "Z" Co.	(b) How was property held, community, separately, jointly	(c) Date acquired, mo., day., yr.	(d) Date sold, mo., day., yr.	(e) Gross sales price	(f) Cost or other basis, as adjusted, plus expense of sale	(g) Gain (or loss), column (e) less column (f)
<b>1</b>						

- 2** Capital gain from installment sales from form FTB 3805E, line 26 or line 37 ..... **2**
- 3** Enter your share of net gain or (loss) from partnerships, S corporations, limited liability companies (LLCs), and other fiduciaries ..... **3**
- 4** Capital gain distributions. See instructions ..... **4**
- 5** Net gain or (loss). Combine line 1, column (g), line 2, line 3, and line 4 ..... **5**
- 6** Enter gain, if applicable, from Schedule D-1 ..... **6**
- 7** Capital loss carryover from prior years. **Note:** There is no capital loss carryover from a decedent to an estate ..... **7**
- 8** Net gain or (loss). Combine line 5, line 6, and line 7 ..... **8**

**Part II Summary of Part I**

	(a) Beneficiaries	(b) Fiduciary	(c) Total
<b>9</b> Total net gain or (loss) from line 8, column (g), above. If line 9, column (c), is a net gain, enter the gain on Form 541, line 4. If line 9, column (c), is a net loss, complete Part III. See instructions ..... <b>9</b>			

**Part III Computation of Capital Loss Limitation****10** Enter here and enter as a loss on Form 541, line 4, the smaller of:

- The net loss on line 9, column (c) or \$3000 ..... **10**

**Part IV Computation of Capital Loss Carryover from 2002 to 2003**

Use the Capital Loss Carryover Worksheet in the instructions for federal Schedule D (Form 1041), Capital Gains and Losses, if the net loss on line 8 is more than \$3000, to determine the capital loss carryover. Attach a copy of Schedule D (Form 1041) to Form 541.

**2002 Depreciation and Amortization****3885F****Attach to Form 541 or Form 109.**

Name of estate or trust

Federal employer identification number (FEIN)

Assets placed in service after 12/31/01 (depreciation)			Depreciation			Amortization		
Intangibles placed in service after 12/31/01 (amortization)								
(a) Description of property	(b) Date acquired, mo., day, yr.	(c) Cost or other basis	(d) Method of figuring depreciation	(e) Life or rate	(f) Depreciation for this year	(g) Code section	(h) Period or percentage	(i) Amortization for this year
<b>1</b>								

Add line 1 column (f) and column (i) amounts. See instructions

**Depreciation**

- 2** California depreciation for assets placed in service before January 1, 2002 ..... **2**
- Note:** Be sure to make adjustments for any basis differences.
- 3** Total California depreciation. Add line 1(f) and line 2 ..... **3**

**Amortization**

- 4** California amortization for intangibles placed in service before January 1, 2002 ..... **4**
- Note:** Be sure to make adjustments for any basis differences.
- 5** Total California amortization. Add line 1(i) and line 4 ..... **5**
- 6** Total depreciation and amortization. Add line 3 and line 5. Enter amount on the appropriate line of federal Schedule(s) C or C-EZ, E, F, or Form 541, line 15a. .... **6**

# Instructions for Schedule D (541)

## Capital Gain or Loss

### General Information

#### Federal/State Conformity

In general, California law conforms to the Internal Revenue Code (IRC) as of January 1, 2001. Therefore, California has conformed to the income tax changes made to the IRC by the federal Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), the Tax and Trade Relief Extension Act of 1998 (Public Law 105-277), Surface Transportation Revenue Act of 1998 (Public Law 105-178), the Ricky Ray Hemophilia Relief Fund Act of 1998 (Public Law 105-369), the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170), the Miscellaneous Trade and Technical Corrections Act of 1999 (Public Law 106-36), the FSC Repeal and Extraterritorial Income Exclusion Act of 2000 (Public Law 106-519), the Consolidate Appropriations Act of 2001 (Public Law 106-554), and to technical corrections made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16). However, there are continuing differences between California and Federal law. California has not conformed to some of the law changes made by the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16) or the federal Job Creation and Worker Assistance Act of 2002 (Public Law 107-147).

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### Purpose

Use Schedule D (541), Capital Gain or Loss, to report gains and losses from the sale or exchange of capital assets by an estate or trust. Generally, California law follows federal law.

To report sales or exchanges of property other than capital assets, including the sale or exchange of property used in a trade or business and involuntary conversions (other than casualties and thefts), get California Schedule D-1, Sales of Business Property.

If property is involuntarily converted because of casualty or theft, complete federal Form 4684, Casualties and Thefts, using California amounts.

**Note:** California does not have a special capital gain tax rate.

#### Qualified Small Business Stock

California Revenue and Taxation Code (R&TC) Section 18152.5 provides an exclusion (similar to the federal exclusion under IRC

Section 1202) for 50% of the gain on the sale of qualifying small business stock originally issued after August 10, 1993, that was held for more than five years. However, for California purposes, 80% of the issuing corporation's payroll must be attributable to employment located within California, and at least 80% of the value of the corporation's assets must be used by the corporation to actively conduct one or more qualified trades or businesses in California.

Estates and trusts are eligible for the exclusion; however, estates and trusts (other than common trust funds) may not pass through the exclusion to their beneficiaries. See R&TC Section 18152.5(g)(4).

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### A Miscellaneous Information

See the instructions for federal Schedule D (Form 1041), Capital Gains and Losses, for the definition of capital assets.

In computing gross income, no distinction is made between gains and losses allocable to income account and those allocable to corpus account.

### B Basis

California law generally follows federal law with respect to basis. In determining the basis of property acquired after December 31, 1920, by:

- Gift:
  1. Generally, use the donor's basis if the transaction results in a gain; or
  2. Use the lower of the donor's basis or the fair market value (FMV) on the date of the gift if the transaction results in a loss.
- Bequest, devise, or inheritance:

Use the FMV at the date of death, unless an alternate valuation date election is made under IRC Section 2032.

In determining the basis of property acquired before March 1, 1913, use:

- The cost as adjusted or the FMV as of March 1, 1913, whichever is greater, in determining the gain; and
- The cost as adjusted in determining the loss.

For special cases involving property acquired from a decedent before 1987, see former R&TC Sections 18031 through 18033.

The basis of the decedent's one-half of community property is the FMV at date of death. The basis of the surviving spouse's one-half of community property is the original cost or adjusted basis except:

- If death occurred after April 7, 1953, and prior to January 1, 1976, and one-half of the whole of the community property was included in the determination of the State Inheritance Tax, the basis is the FMV at date of death; or
- If death occurred after December 31, 1975, and prior to June 8, 1982, and the surviving spouse does not receive any portion of the decedent's one-half of the community property, the basis is the FMV at date of death; or
- If death occurred after December 31, 1986, the basis of the surviving spouse's one-half of community property becomes the FMV on the date of the decedent's death.

For more information, get FTB Pub. 1039, Basis of Property Decedent and Surviving Spouse.

### Specific Line Instructions

**Note:** If you file Form 109, California Exempt Organization Business Income Tax Return, attach a copy of your completed Schedule D (541) to Form 109.

#### Part I

**Line 1** – If the estate or trust qualifies for the R&TC Section 18152.5 (similar to IRC Section 1202) exclusion of gain on qualified small business stock, report 100% of the gain on line 1. Directly below the line on which you reported the gain, enter in column (a) "Section 18152.5 exclusion" and enter as a (loss) in column (g) 50% of the gain. Also report 50% of the exclusion as a positive number on Schedule P (541), line 4u.

**Line 2** – If the estate or trust sold property at a gain this tax year and is to receive any payment in a later tax year, use the installment method and file form FTB 3805E, Installment Sale Income. If the estate or trust elects out of the installment method, report the gain or loss on line 1. Also use form FTB 3805E if a payment was received in the taxable year from a sale made in an earlier year on the installment basis.

If the estate or trust elects not to use the installment method and is reporting a note or other obligation at less than face amount on line 1, state that fact in the margin and give the percentage of valuation. Get federal Publication 537, Installment Sales, and Publication 559, Survivors, Executors, and Administrators, for additional information.

**Line 4** – Report the amount from Form 1099-DIV, box 2a, on line 4. If you received a Form 1099-DIV with a gain in

box 2d, part of that gain (which is also included in box 2a) may be eligible for the R&TC Section 18152.5 exclusion (See "Note" under General Information). In column (a) of line 1, enter the name of the corporation whose stock was sold. In column (g) of line 1, enter the amount of your allowable exclusion as a loss.

**Line 7** – Enter the amount of unused capital loss carryover from prior years.

**Note:** There is no capital loss carryover from a decedent to an estate.

#### Part II

**Line 9** – Use line 9 to summarize the gain or loss computed in Part I.

#### Column (a) — Beneficiaries

Enter the amounts of capital gain or loss allocable to the beneficiaries. Do not allocate

capital losses to beneficiaries unless the capital losses are required to offset capital gains. Refer to IRC Section 643(a). Any capital loss carryover for the final year is allowed to the beneficiaries, to the extent of their distributive shares.

**Note:** With the enactment of AB 1115 (Stats. 2001, Ch 920) nonresident and part-year resident beneficiaries may have to report their loss carryovers, deferred deductions, and deferred income differently from the manner shown on their Schedule K-1. For more information, get FTB Publication 1100, Taxation of Nonresidents and Individuals Who Change Residency.

#### Column (b) — Fiduciary

Enter the amounts of the gain or loss allocable to the fiduciary.

**Note:** Enter any capital gain paid or permanently set aside for charitable purposes, IRC Section 642(c), in column (b).

**Column (c)** — The amount entered on line 9, column (c), should be the total of the amounts shown on line 9, column (a) and column (b). Form 109 filers, see instructions for that form.

#### Part III

**Line 10** – If line 9, column (c), shows a loss, the loss is limited at line 10 to the smaller of the amount of the loss or \$3,000.

Form 109 filers, see instructions for that form.

#### Part IV

Complete the Capital Loss Carryover Worksheet in the instructions for federal Schedule D (Form 1041), Capital Gains and Losses, using California amounts to determine the capital loss carryover.

## Instructions for Form FTB 3885F

### Depreciation and Amortization

#### A Purpose

Use form FTB 3885F, Depreciation and Amortization, to compute depreciation and amortization allowed as a deduction on Form 541, California Fiduciary Income Tax Return, or Form 109, California Exempt Organization Business Income Tax Return. Attach form FTB 3885F to Form 541 or Form 109.

Depreciation is the annual deduction allowed to recover the cost or other basis of business or income producing property with a determinable useful life of more than one year. Land is not depreciable.

Amortization is an amount deducted to recover the cost of certain capital expenses over a fixed period.

Generally, California conforms to federal law for assets placed in service on or after January 1, 1987. See California Revenue and Taxation Code Section 17250.

#### B Calculation Differences

California law has not always conformed to federal law regarding depreciation methods, special credits, or accelerated write-offs. Consequently, the recovery periods and the basis on which the depreciation is calculated may be different from the amounts used for federal purposes. Reportable differences may occur if all or part of your assets were placed in service:

- **Before January 1, 1987:** California did not allow depreciation under the federal Accelerated Cost Recovery System (ACRS). California depreciation is calculated in the same manner as in prior years for those assets.

- **On or after January 1, 1987:** California provides special credits and accelerated write-offs that affect the California basis for qualifying assets. California does not conform to all the changes to federal law enacted in 1993. Therefore, the California basis or recovery periods may be different for some assets.

#### Additional differences

##### Amortization of Certain Intangibles:

California has conformed to IRC Section 197 relating to the amortization of intangibles as of January 1, 1994. There is no separate California election required or allowed. However, for Section 197 property acquired before January 1, 1994, the California adjusted basis as of January 1, 1994, must be amortized over the remaining federal amortization period.

**Certain Tangible Property:** The election expense under IRC Section 179 does not apply to estates and trusts.

##### Qualified Indian Reservation Property:

California has not conformed to the accelerated recovery periods available under the Alternative Depreciation System (ADS) for such property.

##### Grapevines Subject to Phylloxera or Pierce's Disease:

For California purposes, replacement grapevines may be depreciated using a recovery period of five years instead of ten years.

For more information about adjustments, get FTB Pub. 1001, Supplemental Guidelines to California Adjustments.

**Note:** This list is not intended to be all-inclusive of the federal and state differences. For additional information, please refer to California's Revenue and Taxation Code.

### Specific Line Instructions

#### Line 1

Complete columns (a) through (i) for each asset or group of assets placed in service after December 31, 2001. Enter the column (f) totals on line 1(f). Enter the column (i) totals on line 1(i).

#### Line 2

Enter total California depreciation for assets placed in service before January 1, 2002, taking into account differences in asset basis or differences in California and federal tax law.

#### Line 4

Enter total California amortization for intangibles placed in service before January 1, 2002, taking into account any differences in asset basis or differences in California and federal tax law.

#### Line 6

Add line 3 and line 5. Enter the total on line 6. See the instructions to Form 541, line 3, for information on depreciation and amortization reported on federal Schedule C.

**Note:** Attach a schedule if you need additional space.